



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

July 21, 1975

Mrs. Charles (Betty) Cleland,
Executive Secretary
Texas State Board of Examiners
of Psychologists
108 West 15th Street, Suite 103
Austin, Texas 78701

Opinion No. H-644

Re: State Board of Examiners of
Psychologists use of employees to
screen applicants for examination.

Dear Mrs. Cleland:

You have requested our opinion regarding the authority of the State Board of Examiners of Psychologists to employ persons, including former Board members, to screen applicants for examination.

The State Board of Examiners of Psychologists was created in 1969 by article 4512c, V. T. C. S., to administer the Psychologists' Certification Act. It is the duty of the Board to certify as a psychologist those qualified applicants for certification who successfully pass the examination prescribed by the Board.

Section 7 of article 4512c, V. T. C. S., provides in part:

The Board may employ such other persons
as it deems necessary or desirable to carry
out the provisions of this Act.

Subject to the limitations of article 4512c, sec. 6, V. T. C. S., which concerns the Licensing Fund, and the General Appropriations Act, (63rd Leg., 1973, HB 139 Ch. III p. 122), we believe the Board is authorized to employ persons to assist in the performance of its duties, including the duty to determine that applicants for examination are qualified. But the Legislature delegated to the Board alone the power to determine whether applicants are qualified or not qualified to take the examination.

That function requires quasi-judicial fact-finding by the Board and it must exercise its own discretion and judgment in such matters, guided by the legislatively set standards, and may not re-delegate that power to others. While it may utilize investigative assistance and advice of its employees, the Board must make the final decisions itself and it will be legally responsible for the decisions made. See generally, Bloom v. Texas State Board of Examiners of Psychologists,

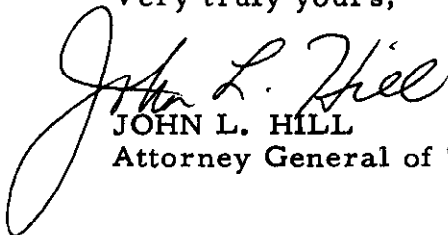
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492 S. W. 2d 460 (Tex. Sup. 1973); Krug v. Lincoln National Life Insurance Co.,
245 F. 2d 848 (5th Cir. 1957); 2 Am. Jur. 2d, Administrative Law, § 222;
Attorney General Opinion H-386 (1974).


SUMMARY


The State Board of Examiners of Psychologists may employ persons, including former Board members if appropriate, to assist it in screening applicants for examination but it may not delegate to such persons any quasi-judicial functions delegated to the Board by the Legislature.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

jad: